

On [page 345, strike lines 12 through 16] and insert the following:

“(2) any alien who is not lawfully present (as such term is used in section 36B(e)(1)),

“(3) any individual who is a dependent of another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, and

“(4) an estate or trust.”.

SA 969. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 891 proposed by Mr. SCHUMER to provide for reconciliation pursuant to title II of S. Con. Res. 5; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . STATE DIRECT FAMILY GRANT PROGRAM.

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, not later than 7 days after the date of enactment of this title, each school that is eligible to receive grant funding under section 2001 shall submit to their respective State Secretary of Education, or equivalent State official, a plan to re-open and resume regular, full-time, 5-day-a-week in-classroom instruction with teachers and faculty physically present for the remainder of the 2020-2021 and for the 2021-2022 school year in such a manner that meets or exceeds the plan for in-classroom instruction that was in effect for that school at the start of the 2019-2020 school year.

(b) **DIRECT EDUCATION ASSISTANCE FUND.**—Each State shall establish a State-controlled Direct Education Assistance Fund. In the event that a school fails to timely submit a re-opening plan in accordance with subsection (a), the State shall withhold all grant funds that would have been provided to such school under section 2001, depositing such amount into the Direct Education Assistance Fund. The State shall administer the Direct Education Assistance Fund, using the monies deposited therein, to establish and operate a grant program to assist families with educational costs in order to provide students with access to alternative education for the 2021-2022 school year. The State Department of Education shall operate the grant program as follows:

(1) The Department shall establish an application process that allows parents to apply for an education grant from the State’s Direct Education Assistance Fund as follows:

(A) Awards grants from available funds in a manner that prioritizes children—

(i) from schools that have not submitted a re-opening plan as required by this section;

(ii) who are special needs students;

(iii) who are suffering from depression or a similar condition or at risk of suicide due to COVID-19-related isolation; or

(iv) who have a parent (or parents) or guardian (or guardians) who work outside of the home during regular school hours and are not available to assist the child with virtual learning.

(B) Includes, as part of the application form, the opportunity for the parent or guardian to submit an education plan for the child that—

(i) as part of an application for a grant for direct education assistance, includes the proposed school, if any, that the parent or guardian has selected for the child and the cost of any fees associated with the application, enrollment, or attendance at such school; or

(ii) as part of an application for a grant for supplemental education assistance a list of any costs which the parent or guardian anticipates will be incurred to purchase items listed in paragraph (5)(B).

(2) The Department shall publicize the availability of direct education assistance to parents across the State with an application period of not less than 45 days and a deadline for applications as of a date not later than July 1, 2021.

(3) The Department shall first prioritize eligibility for grants awarded from available funds to the parents or guardians of children between the ages of 5 and 18 who are eligible to attend a school that failed to timely submit a re-opening plan as described herein and, if funds remain available in the Direct Education Assistance Fund after each priority student has received a grant, the Department shall make grants from the Fund available to the parent or guardians applying on behalf of students from other elementary and secondary schools in the State.

(4) The Department shall only award a grant to an individual who is the legal parent or guardian of an eligible child provided that such individual is also a citizen or national of the United States or an alien (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) who is lawfully present in the United States.

(5) The Department will administer the Direct Education Assistance Fund as follows:

(A) 75 percent of such Fund shall be set aside and used to award direct education assistance grants to finance all or a portion of the educational costs of a child to attend a different school as selected by that child’s parent or guardian in an amount not to exceed \$10,000 per grant award.

(B) 25 percent of such Fund shall be set aside and used to award supplemental education assistance grants to cover a portion of the costs for education such as tutoring services, educational classes, or curriculum inside or outside of the home, books, instructional materials, online educational materials, educational therapies, including educational therapies and services for students with disabilities, and such other educational and instructional materials as the child’s parent or guardian determines is beneficial in relation to at-home learning, including online or virtual schooling or home instruction.

(6) All grants shall be awarded not later than August 15, 2021.

(7) The Department shall require that any parent or guardian who receives a grant pursuant to this section maintain records of how any grant funds were spent.

(8) Grants awarded out of the Fund for direct education assistance shall be distributed in an equitable manner among recipients for such grants consistent with the priorities identified in this section but in an amount not to exceed the educational costs identified within an application and grants awarded out of the Fund for supplemental education assistance shall be made in an equitable manner among recipients for such grants in an amount not to exceed the costs identified in such application.

(c) **PROHIBITION OF CONTROL OVER NON-PUBLIC EDUCATION PROVIDERS.**—

(1) **IN GENERAL.**—Nothing in this section shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home education provider, whether or not a home education provider is treated as a private school or home school under State law.

(2) **NO DISCRIMINATION.**—No State shall exclude, discriminate against, or otherwise disadvantage any education provider, including home education provider, with respect to programs or services under this section based in whole or in part on the provider’s religious character or affiliation, including religiously based or mission-based policies or practices.

(d) **PARENTAL RIGHTS TO USE GRANTS.**—No State shall disfavor or discourage the use of qualifying grants for the purchase of elementary and secondary education services, including those services provided by private or nonprofit entities, such as faith-based providers.

(e) **REPAYMENT.**—If a school does not re-open and maintain operations consistent with the plan submitted under this section, the school shall be required to repay all monies received under section 2001 to the State.

(f) **RETURN TO TREASURY.**—Any monies remaining in the Fund as of September 30, 2021, or if subsequently repaid under subsection (e), shall be repaid to the United States Treasury not later than June 30, 2022.

At the end of section 2001(c), add the following: “An allocation to a State shall be made pursuant to the previous sentence only if the State has publicly published, by not later than 7 days after enactment of this Act, a written plan that guarantees each child in the State has a local public school education option to resume regular, 5-day-a-week in-classroom instruction with teachers physically present and that identifies by name and location which schools will be available for regular in-classroom instruction. Assistance from a grant awarded to a State under this section shall only be provided to a school identified by the State under the previous sentence.”.

SA 970. Mr. CRUZ submitted an amendment intended to be proposed to amendment SA 891 proposed by Mr. SCHUMER to the bill H.R. 1319, to provide for reconciliation pursuant to title II of S. Con. Res. 5; which was ordered to lie on the table; as follows:

On [page 356, between lines 19 and 20], insert the following:

“(j) **SPECIAL RULES WITH RESPECT TO PRISONERS.**—

“(1) **DISALLOWANCE OF CREDIT.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), no credit shall be allowed under subsection (a) to an eligible individual who is, for each day during calendar year 2021, described in clause (i), (ii), (iii), (iv), or (v) of section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)).

“(B) **JOINT RETURN.**—In the case of eligible individuals filing a joint return where 1 spouse is described in subparagraph (A), subsection (b)(1) shall be applied by substituting ‘\$1,400’ for ‘\$2,800’.

“(2) **DENIAL OF ADVANCE REFUND OR CREDIT.**—No refund or credit shall be made or allowed under subsection (g) with respect to any individual whom the Secretary has knowledge is, at the time of any determination made pursuant to paragraph (3) of such subsection, described in clause (i), (ii), (iii), (iv), or (v) of section 202(x)(1)(A) of the Social Security Act.”.

SA 971. Mrs. HYDE-SMITH submitted an amendment intended to be proposed to amendment SA 891 proposed by Mr. SCHUMER to the bill H.R. 1319, to provide for reconciliation pursuant to title II of S. Con. Res. 5; which was ordered to lie on the table; as follows:

In section 1001 (relating to food supply chain and agriculture pandemic response), strike subsection (b) and insert the following:

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—The Secretary of Agriculture shall use the amounts made available pursuant to subsection (a)—

(A) to purchase food and agricultural commodities, including farm-raised fish and wild

fish and shellfish eligible for purchase under the Section 32 program;

(B) to purchase and distribute agricultural commodities (including fresh produce, dairy, eggs, meat, farm-raised fish, and wild fish and shellfish) to individuals in need, including through delivery to nonprofit organizations and through restaurants and other food-related entities, as determined by the Secretary, that may receive, store, process, and distribute food items;

(C) to make grants and loans for small or mid-sized food processors or distributors (including facilities and vessels that process farm-raised fish and wild fish and shellfish in fulfilling Section 32 contracts), farmers markets, producers, or other organizations to respond to COVID-19, including for measures to protect workers against COVID-19;

(D) to make loans and grants and provide other assistance to maintain and improve food and agricultural supply chain resiliency; and

(E) to make payments to agricultural producers for necessary expenses related to losses of crops (including quality losses and crops prevented from planting), milk, trees, bushes, and vines—

(i) that occurred in calendar year 2020 as a consequence of high winds or derechos, hurricanes, tropical storms, floods, tornadoes, wildfires, excessive moisture, and extreme drought; and

(ii) that occurred in calendar year 2021 as a consequence of Winter Storms Uri and Viola (including freeze), including such losses to cooperatives due to power outages and power curtailments (in the same manner as disaster assistance provided to cooperatives for 2018 and 2019 losses).

(2) DEFINITIONS.—In this subsection:

(A) FARM-RAISED FISH.—The term “farm-raised fish” has the meaning given the term in section 60.106 of title 7, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(B) SECTION 32.—The term “Section 32” has the meaning given the term in section 250.2 of title 7, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(C) WILD FISH AND SHELLFISH.—The term “wild fish and shellfish” has the meaning given the term in section 60.133 of title 7, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SA 972. Mr. SANDERS (for himself, Mr. SCHUMER, Mrs. MURRAY, Mr. WYDEN, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CASEY, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HIRONO, Mr. KAINE, Mr. LEAHY, Mr. MARKEY, Mr. MERKLEY, Mr. MURPHY, Mr. OSSOFF, Mr. PADILLA, Mr. PETERS, Mr. REED, Mr. SCHATZ, Ms. SMITH, Mr. VAN HOLLEN, Mr. WARNOCK, Ms. WARREN, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 891 proposed by Mr. SCHUMER to the bill H.R. 1319, to provide for reconciliation pursuant to title II of S. Con. Res. 5; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

Subtitle M—Increasing the Federal Minimum Wage

SEC. 2931. SHORT TITLE.

This subtitle may be cited as the “Raise the Wage Act of 2021”.

SEC. 2932. MINIMUM WAGE INCREASES.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$9.50 an hour, beginning on the effective date under section 2937 of the Raise the Wage Act of 2021;

“(B) \$11.00 an hour, beginning 1 year after such effective date;

“(C) \$12.50 an hour, beginning 2 years after such effective date;

“(D) \$14.00 an hour, beginning 3 years after such effective date;

“(E) \$15.00 an hour, beginning 4 years after such effective date; and

“(F) beginning on the date that is 5 years after such effective date, and annually thereafter, the amount determined by the Secretary under subsection (h);”.

(b) DETERMINATION BASED ON INCREASE IN THE MEDIAN HOURLY WAGE OF ALL EMPLOYEES.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

“(h)(1) Not later than each date that is 90 days before a new minimum wage determined under subsection (a)(1)(F) is to take effect, the Secretary shall determine the minimum wage to be in effect under this subsection for each period described in subsection (a)(1)(F). The wage determined under this subsection for a year shall be—

“(A) not less than the amount in effect under subsection (a)(1) on the date of such determination;

“(B) increased from such amount by the annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics; and

“(C) rounded up to the nearest multiple of \$0.05.

“(2) In calculating the annual percentage increase in the median hourly wage of all employees for purposes of paragraph (1)(B), the Secretary, through the Bureau of Labor Statistics, shall compile data on the hourly wages of all employees to determine such a median hourly wage and compare such median hourly wage for the most recent year for which data are available with the median hourly wage determined for the preceding year.”.

SEC. 2933. TIPPED EMPLOYEES.

(a) BASE MINIMUM WAGE FOR TIPPED EMPLOYEES AND TIPS RETAINED BY EMPLOYEES.—Section 3(m)(2)(A)(i) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)(i)) is amended to read as follows:

“(i) the cash wage paid such employee, which for purposes of such determination shall be not less than—

“(I) for the 1-year period beginning on the effective date under section 2937 of the Raise the Wage Act of 2021, \$4.95 an hour;

“(II) for each succeeding 1-year period until the hourly wage under this clause equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this clause for the preceding year, increased by the lesser of—

“(aa) \$2.00; or

“(bb) the amount necessary for the wage in effect under this clause to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

“(III) for each succeeding 1-year period after the increase made pursuant to subclause (II), the minimum wage in effect under section 6(a)(1); and”.

(b) TIPS RETAINED BY EMPLOYEES.—Section 3(m)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)) is amended—

(1) in the second sentence of the matter following clause (ii), by striking “of this subsection, and all tips received by such employee have been retained by the employee”

and inserting “of this subsection. Any employee shall have the right to retain any tips received by such employee”; and

(2) by adding at the end the following: “An employer shall inform each employee of the right and exception provided under the preceding sentence.”.

(c) SCHEDULED REPEAL OF SEPARATE MINIMUM WAGE FOR TIPPED EMPLOYEES.—

(1) TIPPED EMPLOYEES.—Section 3(m)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)), as amended by subsections (a) and (b), is further amended by striking the sentence beginning with “In determining the wage an employer is required to pay a tipped employee,” and all that follows through “of this subsection,” and inserting “The wage required to be paid to a tipped employee shall be the wage set forth in section 6(a)(1).”.

(2) PUBLICATION OF NOTICE.—Subsection (i) of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by section 2935, is further amended by striking “or in accordance with subclause (II) or (III) of section 3(m)(2)(A)(i)”.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date that is 1 day after the date on which the hourly wage under subclause (III) of section 3(m)(2)(A)(i) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)(2)(A)(i)), as amended by subsection (a), takes effect.

(d) PENALTIES.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in the third sentence of subsection (b), by inserting “or used” after “kept”; and

(2) in the second sentence of subsection (e)(2), by inserting “or used” after “kept”.

SEC. 2934. NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.

(a) BASE MINIMUM WAGE FOR NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.—Section 6(g)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)(1)) is amended by striking “a wage which is not less than \$4.25 an hour,” and inserting the following: “a wage at a rate that is not less than—

“(A) for the 1-year period beginning on the effective date under section 2937 of the Raise the Wage Act of 2021, \$6.00 an hour;

“(B) for each succeeding 1-year period until the hourly wage under this paragraph equals the wage in effect under section 6(a)(1) for such period, an hourly wage equal to the amount determined under this paragraph for the preceding year, increased by the lesser of—

“(i) \$1.75; or

“(ii) the amount necessary for the wage in effect under this paragraph to equal the wage in effect under section 6(a)(1) for such period, rounded up to the nearest multiple of \$0.05; and

“(C) for each succeeding 1-year period after the increase made pursuant to subparagraph (B)(ii), the minimum wage in effect under section 6(a)(1).”.

(b) SCHEDULED REPEAL OF SEPARATE MINIMUM WAGE FOR NEWLY HIRED EMPLOYEES WHO ARE LESS THAN 20 YEARS OLD.—

(1) IN GENERAL.—Section 6(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(g)), as amended by subsection (a), shall be repealed.

(2) PUBLICATION OF NOTICE.—Subsection (i) of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), as amended by section 2933(c)(2), is further amended by striking “or subparagraph (B) or (C) of subsection (g)(1).”.

(3) EFFECTIVE DATE.—The repeal and amendment made by paragraphs (1) and (2), respectively, shall take effect on the date that is 1 day after the date on which the